

ARKANSAS SUPREME COURT

No. CR 92-575

ALVIN LAMONT DAVIS
Petitioner

v.

STATE OF ARKANSAS
Respondent

Opinion Delivered December 4, 2008

PRO SE PETITION TO REINVEST
JURISDICTION IN CIRCUIT COURT
TO CONSIDER A PETITION FOR
WRIT OF ERROR CORAM NOBIS
[CIRCUIT COURT OF PULASKI
COUNTY, CR 91-481]

PETITION DENIED.

PER CURIAM

Petitioner Alvin Lamont Davis was convicted of capital murder and sentenced to life imprisonment without parole. We affirmed. *Davis v. State*, 310 Ark. 582, 839 S.W.2d 182 (1992). In 2005, petitioner filed in this court a pro se petition seeking to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis.¹ The petition was denied. *Davis v. State*, CR 92-575 (Ark. Oct. 6, 2005) (per curiam).

On September 16, 2008, petitioner filed the instant petition, again asking that jurisdiction be reinvested in the trial court to consider a petition for writ of error coram nobis. The petition for leave to proceed in the trial court is necessary because the circuit court can entertain a petition for writ of error coram nobis after a judgment has been affirmed on appeal only after we grant permission. *Dansby v. State*, 343 Ark. 635, 37 S.W.3d 599 (2001) (per curiam). We have held that a writ of error

¹For clerical purposes, a petition to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis is assigned the same docket number as the direct appeal of the judgment.

coram nobis was available to address certain errors that are found in one of four categories: insanity at the time of trial, a coerced guilty plea, material evidence withheld by the prosecutor, or a third-party confession to the crime during the time between conviction and appeal. *Pitts v. State*, 336 Ark. 580, 986 S.W.2d 407 (1999) (per curiam). For the writ to issue following the affirmance of a conviction, the burden is on the petitioner to show a fundamental error of fact extrinsic to the record. *Larimore v. State*, 327 Ark. 271, 938 S.W.2d 818 (1997).

The petitioner here states no ground for relief in the petition. The petition, which is entitled “Petition for Leave To, Seek Error Coram Nobis,” reads in its entirety:

“Comes now the petitioner (Alvin L. Davis) with his request—to seek the (Writ of Error Coram Nobis). Wherefore, with regards to this (Motion/Petition) to proceed without being required to prepay fee’s or costs. Please, see the attached affidavit).....In, support of this request—for, Leave to Proceed In Forma Pauperis!”

It is not clear whether petitioner is merely asking to be allowed to proceed without paying a filing fee or if the petition before us is intended to be his request to proceed in the trial court. If the petition is only a request to proceed *in forma pauperis*, no fee is required to file a coram nobis petition here. If the petition is intended as a request to proceed in the trial court, it states no basis to grant the request.²

Petition denied.

²Petitioner tendered a response to the State’s response to his petition in which he indicates that he has already tendered a petition for writ of error coram nobis to the trial court and that he is awaiting leave from this court to file it.